

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SELF-INSURED'S SECURITY FUND,

Plaintiff,

v.

GALLAGHER BASSETT SERVICES,

Defendant.

No. C 06-02828 JSW

**ORDER DENYING MOTION FOR
LEAVE TO FILE MOTION FOR
RECONSIDERATION AND
SETTING BRIEFING SCHEDULE
ON MOTION TO CERTIFY FOR
INTERLOCUTORY APPEAL**

This matter comes before the Court upon consideration of Defendant Gallagher Bassett Services' ("Gallagher") motion for leave to file a motion for reconsideration of this Court's Order denying its motion to dismiss.

A motion for reconsideration may be made on one of three grounds: (1) a material difference in fact or law exists from that which was presented to the Court, which, in the exercise of reasonable diligence, the party applying for reconsideration did not know at the time of the order; (2) the emergence of new material facts or a change of law; or (3) a manifest failure by the Court to consider material facts or dispositive legal arguments presented before entry of the order. Civ. L.R. 7-9(b)(1)-(3). In addition, the moving party may not reargue any written or oral argument previously asserted to the Court. Civ. L.R. 7-9(c).

Gallagher premises its motion on the third basis and argues that it was not permitted to brief or address the Court's reliance on *Palmer v. Stassinis*, 348 F. Supp. 2d 1070 (N.D. Cal. 2004), authority that was available to the parties when they briefed the motion to dismiss.

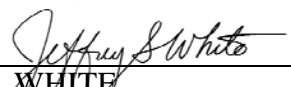
1 Gallagher correctly notes that the court in *Palmer* reconsidered its decision and
2 dismissed the plaintiff's Section 17200 claim. However, as this Court noted, the basis for the
3 *Palmer* court's reconsideration was the passage of Proposition 64, which it concluded was to be
4 applied retroactively. Because the plaintiff had not lost money or property as a result of the
5 allegedly unfair and unlawful activities in which defendants engaged, she could not satisfy
6 Proposition 64's standing requirements. *Palmer v. Stassinis*, 419 F. Supp. 2d 1151, 1154 (N.D.
7 Cal. 2005). Here, it is undisputed that Plaintiff has lost money as a result of Gallagher's
8 allegedly unlawful business practices. (*See* Docket No. 31 at 6 n.1.)

9 The Court also concludes that, upon review of the proffered motion for reconsideration,
10 Gallagher reargues points previously asserted to the Court and, in essence, merely expresses its
11 disagreement with the Court's decision. For these reasons, Gallagher's motion for leave to file
12 a motion for reconsideration is DENIED.

13 Gallagher also has filed a motion to certify the Order denying the motion to dismiss for
14 interlocutory appeal and set the matter for a hearing on March 30, 2007. Plaintiff's Opposition
15 shall be due on March 2, 2007, and Gallagher's reply shall be due on March 9, 2007. If the
16 Court finds the matter suitable for disposition for oral argument, it shall notify the parties in
17 advance of the hearing date. If the parties wish to modify this briefing schedule, they shall file
18 a stipulation or a request that must demonstrate good cause for an extension.

19 **IT IS SO ORDERED.**

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21 Dated: February 13, 2007

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24 JEFFREY S. WHITE
25 UNITED STATES DISTRICT JUDGE
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